

**DRAFT CONSERVATION COMMISSION MINUTES**  
**WEDNESDAY, FEBRUARY 21, 2007 – 7:00 PM**  
**CATA CONFERENCE ROOM**  
**3 POND ROAD**  
**MAX SCHENK, CHAIRMAN**

**MEMBERS PRESENT**

Max Schenk, Chairman  
Charlie Anderson  
William Febiger  
Robert Gulla  
Ann Jo Jackson  
Arthur Socolow

**MEMBERS ABSENT**

**STAFF PRESENT**

Nancy Ryder, Conservation Agent  
Carol Gray, Recording Clerk

**Closure of Hearings, Review of Final Information amendment and signing permits/decisions.**

**41 WHITTEMORE STREET**

The Agent confirms that the revised information detailing current use has been submitted. Delineation submission was done at the last meeting. Resource area delineation agreement, BVW. Delineation confirmation only, with no project proposal at this time. Draft decision is ready for review per previous meeting.

The DEP number was given to the Agent over the phone at approx. 4:30 today.

There are no further concerns and the delineation is accurate.

Mr. Schenk asked if any Commission members had any further concerns or comments.

There were none.

**PUBLIC COMMENT:** none

All previously discussed conditions apply.

**MOTION:** Ms. Jackson     **SECOND:** Mr. Anderson

**VOTE:** 5-0 all in favor and signed by all members present.

**11 JEBEKA LANE**

The Agent states that in regards to the detailed restoration, the mitigation proposal is not complete. The applicant's representative has asked if there can be a condition of the decision to require the detailed plan be submitted to the GCC for review and approval prior to the start of work, so the applicant can proceed with the Chapter 91 and lowlands filing. There are several regulatory issues:

The current 91 regulations prohibit any docks or piers that do not currently exist since this ACEC has no management plan. Dock and pier required to have the same footprint.

The goal is to have an OoC prior to filing the 91 to help with that decision.

Summary review: within River, RRA, Coastal Bank Shellfish flats, salt marsh, estimated Habitat and ACEC.

Existing structure is 225 sq. ft. with the proposed structure at 828 sq. ft.

Mitigation/restoration area is 1500 sq. ft. 2 to 1 mitigation is proposed.

National Heritage states they are in compliance.

DMF and Shellfish state no impact with there comments for re-review along with NHESP comments.

Required filing: (with work on the coastal bank or in ACEC), ENF with MEPA.

Mr. Anderson stated at the last meeting it was requested that the plan be made clearer.

Ms. Jackson stated that she would like to see the plan.

Mr. Febiger had no concerns or questions at this time. 10.55(4) (e) prohibits loss of salt marsh in ACEC, questioning whether or not the 2 to 1 offset for restoration addresses this.

The WPA 10.24 (5) states that there can be no adverse impact to protected interests and resources and 10.34 states that there can be no adverse impact to shellfish areas that are deemed significant. There is no discretionary threshold for disturbance. The area of the existing dock and pier are deemed significant and are mapped shellfish flats.

There is currently a moratorium on any new construction of docks or piers in ACEC the change in footprint results in the dock and pier being considered new construction.

Dave Sargent determined there would be no adverse impact to shellfish resources if the structure was shifted away from the present location as shown.

DMF has issued (3) three statements of concern and guidelines which should be met to ensure no adverse impacts, all of which should be reviewed.

The Commission is obligated to make findings consistent with the regulations on each of these points when issuing a decision.

PUBLIC COMMENT: none

Mr. Schenk stated that this plan should be continued for more restoration and mitigation information.

MOTION: Mr. Anderson moves to continue the matter until 03/07/07 7:05 PM

SECOND: Ms. Jackson VOTE: 5-0 all in favor

### **124R MAGNOLIA AVENUE**

DEP is requesting storm water compliance and RRA analysis. This is not yet resolved with DEP.

An engineering review is needed.

Mr. Schenk asks for a motion to continue.

MOTION: Ms. Jackson moves to continue the matter until 03/07/07 at 7:05 PM

SECOND: Mr. Anderson VOTE: 5-0 all in favor

### **28-1617 101 RIVERVIEW RD.**

This is a previously approved CoC.

Mr. Anderson did a site visit as well as Ms. Ryder and Mr. Gulla.

A letter and sketch describing the pipe and function of it has been submitted.

A photo of the interior basement was viewed by the Commission.

Approval, CoC and signatures required regarding this matter.

MOTION: Ms. Jackson

SECOND: Mr. Febiger VOTE: 5-0 all in favor

PUBLIC COMMENT PERIOD: Mr. Schenk announces that this is the time for the general public to address the Commission regarding any issues not listed on this evening's agenda.

No public comment.

### **201 ESSEX AVENUE (Map 219 Lot 187) NEW**

Sharon Perkins to construct a duplex home.

Mr. W. Manuell rep. the applicant.

Mr. Manuell addressed the Commission noting this being a NoI re: a duplex dwelling with the driveway crossing over isolated Wetland and that the crossing would bi-sect the isolated Wetland with approx. 350 sq. ft. noted. He stated that only a local filing is needed.

23 Flags were noted on the plan.

2,100 sq. ft. of restoration/replication

Mr. Manuell notes the house being in the buffer zone and a duplex dwelling allowed by zoning. He further noted that other means of access re: the driveway were explored. He discussed attempts at contacting abutters with one certified letter to an abutter going unclaimed, The Masons being approached and they declined access and The Mondellos submitted a letter denying access as well.

Mr. Manuell described a narrow driveway to minimize the extent of alterations with a retaining wall on either side. 12 ft of paved area and 2 ft grass strips on either side.

Mitigation to be designed for low impact.

He discussed the removal of trash, excavating out, and in re: to the Wetland area, that would be prepped with soils being moved to replication area. Top soils to be imported with the revegetation replication area having nursery shrubs. He detailed the plantings as follows: 30 Red Maple trees, 60 each of Pepper, Blueberry and Silky Dogwoods,

50 each of Cinnamon Fern pots and Sensitive Fern pots. He further stated this is probably overkill but the only way to keep invasives out. He noted follow up monitoring and coming back within 30 days and with the next year a CoC at the end of the 2<sup>nd</sup> growing season.

Regarding Storm water management Mr. Manuell notes the Engineering Dept. and 4 separate roof runoff units, charge SW from the rooftop and proposed base saver removing up to 80% TSS. He noted the installation of an equalizing culvert to equalize water distribution, 18 inch pipe.

Ms. Ryder notes that the applicant and owner have been diligent regarding all alternatives in this plan. She is concerned about a constructed crossing and feels that additional review is needed. The Agent feels that the Wetland delineation is accurate and caution should be taken to ensure the replication area is hydrologically connected to the actual ground water, wetland and further concerns with the bi-secting Wetland, habitat and hydrology connection carefully reviewed. She further recommended that a Wetland Scientist be on site during all Wetland replication.

The Wetland delineation was primarily designated by flood levels at 2006 Mothers Day storm and she believes the delineation to be conservative. The Agent noted the replication details and planting list are at the end of the project description section and are fairly detailed and comprehensive.

In reference to the replication: it is not quite 2 to 1 however removal of invasives in Wetland and replanting native non invasive species would enhance the proportion of restoration to disturbance.

Mr. Manuell did comment on this in the above minutes.

The Agent stated that 2 family homes are not exempt from storm water, although a local filing. (no storm water calculations submitted). Engineering review is pending.

Ms. Ryder noted her concerns with the turnaround area impacting two good tree clusters which she stated should be saved and possibly room to shift the turnaround.

Much of the lot is covered with scrub or damaged trees, the good ones should be preserved and a decent buffer left around them.

The Agent was asked about the impact to Habitat in relation to bi-secting the Wetland and she stated that she was not qualified to say.

Mr. Socolow inquired as to the basement and it not being a pool.

Mr. Manuell stated yes as to a basement and test pits at almost 80 inches.

Mr. Schenk inquired as to the high ground water and Mr. Manuell noted test holes 1, 2 and 3 and further noted was the year 1987 and water seeping in at 50 inches.

Mr. Febiger asked about the consideration of the use of non paving material for the driveway and Mr. Manuell stated that with this in such close proximity of the Wetland, if gravel was to be used, when plowing occurred the gravel would be pushed into the Wetland with a potential to increase sedimentation.

Mr. Febiger asked about the existing driveway and Mr. Manuell stated the existing driveway is used now and is gravel.

Mr. Socolow asked if the gravel was loose or packed down, and noted the fact that they have lived with it that way so far. Mr. Manuell stated it is loose and yes that they have lived with it thus far.

Ms. Ryder noted that the end result of gravel would end up filling the edges of the Wetland and stated that she is usually in favor of non paved but in this project she feels it would be better to be paved.

Mr. Anderson asked if there is a pending Engineering review Mr. Manuell stated yes.

Ms. Jackson asked if the Cedar trees were to come down and Mr. Manuell stated pretty much and the area then breaks out into an open field.

Ms. Ryder noted that the cluster birches and the Norway Maples were not shown.

Mr. Manuell noted from 3 to 1 grading to 2 to 1 grading making an effort to tighten things up. He stated that moving the turnaround would be difficult as the garage has to utilize it. Ms. Ryder noted the canopy is a concern.

PUBLIC COMMENT: Mr. Joe Sanfillipo:

Thought this would be a good addition to the neighborhood and a good project.

Mr. Siddiqui:

He noted his concern as to this being listed as a non-build able site but through special permits in 1990 it went from unbuildable to build able.

He quoted the Planning Board.

He further noted that this means the lot not build able even with permission.

Mr. Schenk noted that the Cons. Comm. concern is environmental issues and not lot lines and such, which is for the Planning Board.

Mr. Siddiqui asked how it can be converted into build able and how will all this effect the neighborhood, noting the storm water runoff in a high position.

Mr. Manuell noted that the Wetland is at the extreme lowest topographical area in the neighborhood and all areas around it are higher.

Mr. Schenk stated that The Engineering Dept. will review re: storm water and asked for a motion to continue the matter.

MOTION: Ms. Jackson moves to continue the matter until 03/07/07 at 7:05 PM.

SECOND: Mr. Anderson                      VOTE: 5-0 all in favor

#### **41 FOLLY POINT ROAD** (Map 147 Lot 7) **NEW**

Ken Erickson requests the Conservation Commission to determine the applicability of the Wetlands Protection Act and the local Wetlands Ordinance to raze the dwelling and construct a new dwelling.

Mr. Manuell present and rep. Ms. Alice Erickson

This being a Request for Determination, Mr. Manuell states the existing home would be torn down for a new home entirely outside the buffer zone.

He is here this evening to note the easterly corner of the property where machinery needs to be and this will intrude into the buffer zone. Seeking negative determination.

Mr. Socolow asked about fill and Mr. Manuell stated no fill and noted for erosion control a siltation fence would be in place.

Ms. Ryder noted a concern regarding the velocity zone being at elevation 30 with storm waves of record at that or higher. The velocity zone could change designation in the future.

Mr. Febiger inquired as to the top of the coastal bank and photos were shown to all Commission members.

Mr. Anderson and Ms. Jackson had no further comments at this time.

Positive 2A Negative 5 Negative 3

PUBLIC COMMENT: none

MOTION: Mr. Febiger moves for a negative determination

SECOND: Mr. Anderson                      VOTE: 5-0 all in favor

#### **A filing under the City of Gloucester Wetlands Ordinance by SAM PARK to construct mixed use development and access road off Rte 128 Extension (Map 262 Lots 13 & 14 Map 43 Lot 4), behind Fuller School.** Request for continuance until 03/07/07.

Continued until 03/07/07 7:30-8:30 PM.

#### **25 WYOMA ROAD** (Map 256 Lot 20) **NEW**

Carole Seigel to construct addition to dwelling. This is a single family home addition in existing lawn.

Qualifies for exemption under revised regulations for buffer zone and RRA.

DEP review is not complete and additional RRA information may be needed.

Site visit photos for the Commission to review.

William Manuell rep. the applicant states this being 497 sq. ft, less than 10% of the 5000 impact threshold. A cross wall foundation, encircling the area with siltation fence and preserving a row of hedges. The work area would be completely enclosed.

Re: the resource areas, coastal bank, this is a tidal area.

Planting beds to be enhanced with additional plantings. All will basically be lawn with the exception of the home and the driveway. There will be a dry well for infiltration. He stated this is a fairly small project. This would occur 65 ft away from the edge of the seawall.

Mr. Schenk inquired as to the use of the addition and Mr. Manuell stated it would be used as an office. He further asked if the Board of Health had cleared this and Mr. Manuell was unsure at this time. Re: mitigation Mr. Manuell stated he had no problem with 2 to 1.

The Agent noted the need for beach grass suggesting a box of that could add to the mitigation and Mr. Manuell stated that could be discussed.

Mr. Anderson asked what is in that area now and Mr. Manuell stated grass, the edge of the gravel and foundation planting area.

Mr. Schenk noted that the Board of Health may request a statement that says it won't be used for anything other than an office. A Title 5 concern was noted.

PUBLIC COMMENT: none

MOTION: Ms. Jackson moves to continue the matter until 03/07/07

SECOND: Mr. Anderson                      VOTE: 5-0 all in favor

#### **145-155 ESSEX AVENUE** (Map 218 Lot 31)

Heights at Cape Ann request the Conservation Commission to determine the applicability of the Wetlands Protection Act and the local Wetlands Ordinance to conduct vista pruning.

In review: A revised plan with exact pruning location noted. Draft decision is ready to file.

The WPA limits vista pruning in RRA as an allowable activity outside 50 ft. of MHW or the outer 50 ft. buffer zone, and further limits the removal of Canopy to 10% of the area being pruned or less.

These details are not included in the revised plan however the accompanying email notes that a certified arborist will perform the work, that any trees that die due to pruning will be replaced, that a site inspection will be coordinated with The Agent, that the branches and trees to be pruned will be staked out prior to work and that no more than 10 % of the work area canopy will be removed.                      Mr. Chi Y. Man, Civil Engineer rep. the applicant.

Mr. Man noted the access road and the tree pruning stating the area to be a 60 ft strip along the access road. A panoramic photograph of the area to be pruned was presented to the Commission.

At the last hearing as above noted the pruning would be no more than 10% as well as being selective. A certified tree arborist to be on site as part of the conditions.

A survey crew is to determine the river front line and limit line.

The Agent feels that all questions have been answered at this time but further noted that rather than a Cert. Arborist, a Habitat Specialist be in place.

Mr. Socolow asked what the pruning involved and Mr. Man stated that he would have to work within the 10% rule and the pruning would be selective.'

Mr. Schenk noted that it sounded more like branches to be pruned and Ms. Ryder noted the 10% canopy.

Mr. Man stated there would be 2 to 1 replacement for any dead trees.

Mr. Febiger noted the photo and asked if the area to be done would only be the shaded area to the left, and further asked if there would be any clearing to the right.

Ms. Ryder noted this is in the buffer zone, just not shown.

Mr. Febiger asked about a specific pine tree and Ms. Ryder stated that it could be noted as a condition.

Mr. Socolow asked if the pine tree was to stay and Mr. Man stated that if it is outside the 200 ft. line of the buffer zone, it may come down. Mr. Socolow further asked if we could specify that it stays.

Mr. Schenk noted that the Commission could make it a recommendation that it stays in regards to it being an adverse impact to the slope. Our recommendation could be to keep it there but with removal of selected branches.

PUBLIC COMMENT: none

Mr. Schenk asked for a motion to accept with conditions.

MOTION: Ms. Jackson moved to accept the project w/ conditions including 10% rule, Habitat Specialist on site and specification of trees to be cut.

SECOND: Mr. Anderson      VOTE: 5-0

**1106 WASHINGTON STREET** (Map 143 Lot 2) **NEW**

Deborah Coull\*\*, applicant and Thomas Williams, contractor present at the meeting.

Ms. Ryder asked the applicant if the copy from Engineering is available and the applicant stated no. Mr. Williams notified the Commission that John Judd did the drainage plan.

Engineering did not come back with a positive review.

Mike Hale had to recuse himself as he is a neighbor and Mr. Clark will do the review.

Mr. Schenk asked the applicant and contractor to present to the Commission a quick run through of the plan to make the Commission aware of the events of the project.

It was stated that John Judd determined that the tank be in the front yard.

Ms. Ryder noted that we do have a calculations sheet but does not feel it is complete further stating that Rick has to see the actual calculations and if John Judd doesn't do it, more calculations will be needed.

Mr. Williams in reviewing the project stated this being an existing house with proposed addition with no basement. There will be a 4 ft frost wall with footing 1 ft below that.

Proposed tree line and new plantings were noted on the plan for the Commission.

Mr. Febiger noted the topo. just above the Wetland and Ms. Ryder noted this listed as 97.1, which is inconsistent. Flooding is an issue for the Laneville neighbors. All water retained on site and the displacing of ground water will flood the neighborhood.

Rick feels test pits need to be done. Displacing of water is a concern when converting a site from grass to complete impervious.

Mr. Febiger inquired as to a subterranean barrier and was told that would be minimum impact with a slab.

Mr. Socolow inquired as to the foundation being under the house and Mr. Williams stated that there is a crawl space and a slab.

Ms. Ryder noted the displacing of all water on site and that The Engineering Dept. has to approve the storm water.

Mr. William stated that there is sump pump underneath the foundation walls.

Ms. Ryder notes that that is in the house, still an issue of ground water.

Mr. Williams stated that Johnny Moss did the excavation, 2 to 3 ft. deep (photos available),

Ms. Ryder noted that the Commission does not have the photos and in being submitted need to be in color. She further asked if anyone witnessed water levels.

Mr. Socolow noted that the Wetland elevation is 2 ½ ft. higher than the slab in which case there is a tendency for the water to seep onto the slab. The slab is lower than the Wetland.

Ms. Ryder recommends this project go back to The Eng. Dept. then to the Cons. Comm. with the submission by next Wednesday unless the applicant is going to wait until the end of March agenda.

Mr. Socolow felt a detailed replication of loss of trees would be in order as it seems it would be quite extensive.

PUBLIC COMMENT: none

MOTION: Ms. Jackson moves to continue the matter until 03/21/07 at 7:30 PM

SECOND: Mr. Febiger      VOTE: 5-0

**13 CONONICUS ROAD** (Map 231 Lot 6)

Andrew Bonina requests the Cons. Comm. to determine the applicability of the Wetlands Prot. Act and the local Wetlands Ord. to construct a dwelling, driveway, grading and utility connections.

Request for Determination

Ms. Ryder notes that the coastal and riverfront shown are accurate. Site is in outer buffer areas to coastal bank and BVW, with no concerns. The Agent walked the site with the applicant.

A filing is required due to construction entrance in RRA.

BMP's such as trap rock and erosion control monitoring will be key to preventing soil erosion down to the river along Cononicus.

Mr. Schenk asked if any Comm. members had any concerns, comments or questions.

Mr. Febiger asked about the river front and Ms. Ryder stated just the driveway entrance as a concern.

Mr. Anderson asked about pavement and Mr. Bonina stated a paved driveway on the right hand side and a retaining wall.

Ms. Ryder noted that the retaining wall is outside riverfront with trap rock required at the entrance. Water coming off of the hill runs into the road. The steep slope is outside the 200 ft. of the buffer zone.

Mr. Febiger asked if there is a consideration to possibly pitching the driveway and Ms. Ryder noted that they may want to create an infiltration basin.

Mr. Bonina stated that there would be plenty of fill from the foundation.

PUBLIC COMMENT: none

Positive 2A, Negative 3, Negative 6

MOTION: Mr. Socolow moves for a negative determination

SECOND: Mr. Febiger      VOTE: 5-0

5 Minute recess

MOTION: Mr. Febiger moves for a recess

SECOND: Mr. Anderson      VOTE: 5-0

**BASS AVENUE** (Map 50 Lots 22, 23, 24, 25, 26, 27, 28, and 29)

Richard Cretarolo to construct four duplex dwellings and road at 2, 4, 4R, 6, 6A, 8, 10, & 14.

This hearing was continued from 01/17/07.

Mr. Curt Young and Mr. William Cox for the applicant, both noting packets to be given to the Commission for review. Not available for review at this time.

Ms. Ryder notes the Planning Board 3<sup>rd</sup> party correspondence date 02/12/07. Further noting that the applicant submitted the 3<sup>rd</sup> party review for the Planning Board but did not address the Cons. Comm. concerns in any depth.

In the Packet: Letter to the Commission, abutters concerns, data for soil tests, but the Agent notes that the only thing she has is the correspondence to Planning.

Mr. Schenk inquired as to the other Commission members having additional info and the consensus was No.

Mr. Young states that he and Ms. Ryder met at the site and went to a portion of the site used as an old stockpiling area. Old aerial photos were shown with information noting this being subject to ATV activity. A sample of soil information was given with no reportable levels of heavy metals, all this being in the packets that the Commissioners will receive.

An additional ground water testing was requested in re: the basement and sump pump. 7.9 elevation corresponds to what was listed at the back of the property.

Landscaping plan: A strip on Bass Ave. has already been planted. Proposed: 8 street trees in front of the units and 9 Emerald green Arborvitae. No cut no clear zone: 18,000 sq. ft.

Ms. Ryder notes that DEP has not withdrawn there review comments.

She further inquired with the applicant as to whether or not the FEMA flood lines being on the map per DEP.

Mr. Young noted a revised Storm water management form. He further stated that the Wetland boundary bothers him a bit as there are some differences with flagging that was done and noted a revised Wetland boundary. He didn't know if this was a new or old survey.

He further noted a correction of that with pink flags.

Ms. Ryder asked if the applicant has a previous Wetland line and Mr. Young stated that he super imposed the old and the new on the plan with red being the old and green being the current.

Ms. Ryder noted that the revised plan needs to be submitted to the office.

A detention pond was noted as well as 30 ft set back being kept 96 and 79 then back to 30 ft, between 30 and 70 ft.

Ms. Ryder asked if the basin is shifted back and Mr. Young stated yes.

Ms. Ryder notes that this is a whole new filing with Mr. Young responding stating no it is not, just revisions to the existing plan. He stated he could give the Commission an overlay plan re: the units, the swales and the pond.

Mr. Schenk noted that the before and after would be fine.

Mr. Febiger inquired as to the date of the revision and Mr. Young stated: 02/12/07.

Mr. Schenk inquired as to the date of the aerial photo and Mr. Young did not have that information but could get it.

Mr. Socolow inquired as to whether or not the detention area would be a permanent pond

Mr. Young asked if he meant a wet pond and Mr. Socolow replied stating what other kind of pond is there.

Mr. Young stated that it would drain dry/ a dry detention pond with Mr. Socolow asking why the pond is there.

Mr. Young stated that it is there to slow down the runoff and it is water quality related, treating suspended solids. He finds this to be an effective way of polishing the water.

Mr. Socolow asked if this would elevate the Wetlands and Mr. Young stated after a drawn out period of time the water will travel the Wetlands.

Mr. Socolow asked about the elevation and Mr. Young stated 6.7 and shows Mr. Socolow the plan stating also that this will promote extended discharge of fresh water to the Wetland.

A request was made for a copy of the Engineering review which was received.

Ms. Ryder noted that the storm water mgt. was not noted and Mr. Paul Duslop's letter is needed re: storm water and is to be submitted to the Agent.

Mr. Young noted a pea stone driveway and not liking it in the case of vehicles leaking and not knowing it if it were pea stone but if it were asphalt then it would be visible. This plan incorporates a paved driveway. He further stated that pea stone for a patio and the ability to infiltrate through the grassy swales.

Mr. Socolow inquired as to there being a proposed street light and to control traffic where?

Mr. Young stated it would be off Bass Ave. and not a traffic light but a safety light.

A letter from the Bass Ave. Neighbors was noted and it states they feel this is too dense a development for the area and that 8 units are proposed but they could do 22.

Mr. Young stated that total density is 23 or 24% with 20 to 40 being low density and that they meet that undershooting the unit numbers and keeping density down.

He further noted the number of calculations in the letter of response from the abutters but noted that they are in error re: the cut zone.

Mr. Socolow noted that when driving along Bass Ave. how does one get to the common driveway, one entrance?

Mr. Young stated yes one entrance but separated by green space, vegetation planting done by local folks.

Mr. Young further stated that some of these numbers are incorrect regarding comments made about runoff not being treated. He takes exception to that having done a great job and all being well taken care of in this design.



Mr. Socolow asked for the total number of acreage for the lots and the answer being: 94,900 sq. ft total area for 3 lots.

Mr. Young did a comparison regarding density with this project being approx. 94,000 sq. ft and allegations of this being a massive project when next to it are 18 lots on approx. the same sq. footage.

Mr. Febiger asked if the driveways are to be paved and large and Mr. Young stated yes and yes.

Mr. Cox noted to the Commission an arborvitae screening for the neighbors on Bass Ave with 9 arborvitae.

Ms. Ryder noted that the neighborhood comparison document is not filed and was then submitted by Mr. Young. Ms. Ryder further notes that re: the change in the delineation of the basin, she will need to go out to the site and check that. To be submitted to the Eng. Dept: storm water management and site plan. The Agent further noted that DEP had requested for flood lines and she does not see that either. This needs to be carried over to the final plan, highlighted on each map. Mr. Cox stated he could color code it.

Ms. Ryder noted the Commission asking for depth of ground water and soil testing.

Mr. Febiger questioned the collecting of data.

Mr. Young stated that the sump pump is in the house and further stated that he can look into the elevation of the water table.

Ms. Ryder notes that a test pit outside the house in the soil is needed not in someone's basement.

Mr. Febiger stated that he would like to see this done in between the house and the sewer easement. Mr. Young stated that they would do another test with Ms. Ryder reminding everyone that this was also talked about at the site visit.

Mr. Young stated this can be done with difficulty as there is large stockpiling of boulders but can pick a different agreed upon location.

Mr. Socolow noted that the edge of rte 128 not clearly noted on the plan.

Mr. Young stated that the Wetland boundary is shown on the plan and noted it to the Commission re: a culvert very close to Rte 128, close to the shoulder.

Mr. Socolow noted the Rte 128 area is closed in by fragmities and the fragmities area is not noted on the plan. Mr. Young noted deep fragmities in certain areas.

Mr. Schenk informed any members of the public wanting to speak that because it looked as if many may do so that there is a 5 minute time frame and any comments are for the official record. He further noted that there would be another opportunity to speak on this issue as it will be continued for the Commission to review new information.

#### PUBLIC COMMENT:

Mr. Joe Schalino: Mr. Schalino discussed this issue in relation to Special Permits through the City Council. The Commission noted that neighborhood density is not related to Cons. Comm. issues. He will email his comments to the office.

Mr. Edwin Leavitt: Mr. Leavitt questioned who would maintain the cleanliness of the grassy areas and the pond and further discussed infiltration.

Mr. Cox, rep the applicant: Replied stating that as a condition of approval through the Planning Board, we would have to maintain the area, through the Homeowners Association.

Ms. Ryder requested a copy of the maintenance agreement and any conditions re: maintenance.

Mr. Steven Golden: Mr. Golden questioned the red line on the plan, noting the green line as the current proposal. He further discussed Special Permits and also had a concern re: water drainage, the creek and Good Harbor Marsh. He closed by stating he hopes they don't get the permit.

Mr. Socolow asked for the number re: the total lots and the figure is 94,900 sq. ft. with Ms. Ryder noting total impervious as 22,390. 20-38 Bass Ave is 29,700 with impervious of 22,390.

Mr. Socolow asked if 8 houses were proposed and Mr. Young stated no, 4 duplexes.

Mr. Young stated that Mr. Golden suggested this being a salt water stream and that maybe at one time it was but because of so much water flow and restrictions in flow there is not influencing vegetation it is now fresh water.

Mr. Socolow inquired as to USGS Map showing this as a perennial stream.

A member of the general public spoke out stating that a test of the water should be done, it is salt water and to say it is fresh water is steering the Commission wrong.

Mr. Young stated he begged to differ.

Mr. Schenk noted a salinity test being done and to add that to the list.

Mr. Young stated one had not been done.

James Cook: Mr. Cook noted the water levels and a little house stating a raft was kept in the basement to maneuver because of all the water.

Mr. Schenk asked for that in writing and submit it to the office.

Mr. Anderson suggested that any salinity tests be done at multiple depths.

Ms. Ryder noted a filing received on Friday and she has not had an opportunity to review it.

9:36 PM Mr. Gulla enters the meeting.

Information needed: Salinity test, Homeowners Agreement date of aerial view photo, Color coded overlay map, depth to ground water table

Mr. Cox submits Mr. Dewsnap letter.

MOTION: Ms. Jackson moves to continue the matter until 03/21/07 7:30 time slot (45 minutes).

SECOND: Mr. Anderson      VOTE: 5-0 all in favor

5 Minute recess

MOTION: Ms. Jackson moves for a recess

SECOND: Mr. Anderson      VOTE: 6-0 all in favor

### **209 ESSEX AVENUE** (Map 219 Lot 96) **NEW**

Discussion of violations that have occurred.

Ms. Ryder notes the tree cutting on the banks of the perennial stream after site meeting with her and Dave Sargent. She has not heard from anyone.

Mr. Taliodoris, property owner told the Agent that the trees were from a previous storm and that they were trimmed down, this being done by a certified tree person. He took all the branches off with some of the stumps being left.

Mr. Schenk noted a photo showing the stumps.

Ms. Ryder noted that those were directly on the river and is shown as a river on the map, it is a perennial stream. She further noted anything within 200 ft. re: walls and trees.

She further noted work within the resource area and buffer zone, telling the property owner they need to come to the office and file as though they haven't done it yet.

She further noted accessing the habitat and mitigation.

Mr. Schenk stated that they were not big trees but trees that will grow to a larger size.

He further noted that an after the fact filing is needed.

Ms. Ryder stated that hold would be put on the enforcement order and a month to be given to submit an application, to be submitted by 03/21/07.

Mr. Gulla recommended that they get someone to delineate where the Wetland is to avoid any further issues. He recommended a Wetland Scientist and/or Specialist.

Mr. Schenk and Ms. Ryder agreed.

MOTION: Ms. Jackson moves to continue the matter until 03/21/07 10:30

SECOND: Mr. Anderson      VOTE: 6-0 all in favor

It was further noted that if submissions are made by 3/21/07 this will be closed and if not the Commission will proceed with an Enforcement Order.

**MAGNOLIA AVENUE** (Map 193 Lots 35 & 44) **NEW**

James Larson requests the Conservation Commission to determine the applicability of the Wetlands Protection Act and the local Wetlands Ordinance to use existing paved driveway to access multiple new house lots off Magnolia Ave.

Rich Reome, rep. the applicant states that a Wetland Botanist assessed the site. He further discussed the plan and Wetland delineation. He would like to allow the existing paved driveway with no improvements to be done other than hand trimming.

Ms. Ryder stated that the plan as shown is accurate. Her concern is prior to the site visit another Wetland that has not been shown that is within the jurisdictional buffer zone and that not everything in the back of the lot is being shown. She denotes the areas of Wetland that are not noted on the plan. It was further noted that Engineering has reviewed and detention basin for water not jurisdictional. Soils are bright and sandy and not jurisdictional. Water does not always equal a Wetland. Soil pits based on the Health Dept. Mr. Gulla inquired as to areas subject to flooding and whether or not they are jurisdictional.

Mr. Schenk asked if any other Commission members had any comments and there were none.

He further noted to the public when speaking the 5 minute time frame and to please submit in writing as well.

Mr. Mark Nestor 15 Longhill Rd. stated that his primary concern is land subject to flooding. He further discussed the driveway areas and noted this area historically, 6 months out of the year, is flooded and in spring water cascades. This results in flooding onto his property. He feels that a new road will significantly impact the area.

Ms. Ryder asked if anyone had any physical evidence and Mr. Nestor submitted photos and documents to be stamped at the office tomorrow.

Mr. James Cook 633 Wisteria Avenue asked for the definition of a vernal pool.

Ms. Ryder stated that there is no evidence of this holding water long enough to be considered.

Mr. Cook read his letter to The Commission noting that this should include other areas of Wetland, feels that the delineation is not approved, and noted Wetland on the adjoining property. He closed by stating that at this time the Wetland is pristine.

Mr. Dennis Wilson 59 Magnolia Avenue stated that in re: to the flooding the area floods often and basements subject to flooding. He stated there is a vast area of detention ponds on his property line. He voiced a concern about the temporary flooding of his basement. He is a direct abutter and has great concerns.

Ms. Ryder noted no evidence of hydric soils further stating this may have local jurisdiction.

Mr. Golden noted the isolated land that is subject to flooding and asked Ms. Ryder if it extends over the driveway. Ms. Ryder stated no.

The applicant explained the plan and the hand trimming to clear the driveway. He further stated that as long as he stays further than 100 ft. no further permits are necessary and Mr. Schenk said we are saying the same thing.

Ms. Ryder noted that the flags need to be reconfirmed and also noted the trimming of branches.

No specific work and no other delineations are being asked for.

Mr. Nestor asked if the applicant had the authority to cut trees now, because they are.

Mr. Gulla said that he should photograph the stumps.

Mr. Larson stated that he has not cut down any trees and further stated he has had no involvement with the cutting of trees.

Mr. Dave Marro stated that he felt trees were cut to give people a view of Boston Harbor. Brush was cleared and there is blacktop on dirt.

Ms. Ryder noted this being a Planning issue.

James Cook noted that the applicant said "of we are within the buffer zone" and he feels the whole thing can be settled with a Wetland delineation.

Ms. Ryder noted this is not the job of the Commission and that we have no legal authority to denote the delineation.

Mr. Cook asked about penalties and enforcement.

Ms. Ryder noted structure of the enforcement to be noted at the 03/07/07 meeting and maybe a change in ordinance to provide ticketing of such.

Mr. Cook inquired as to Lot 44 near Ryan Road and the applicant noted the lots on the plan.

Ms. Ryder stated that the applicable issue at this time is the tree trimming on the roadway.

Mr. Golden stated that these issues should be in writing.

Mr. Schenk noted that legalities work on our side to stop work and Ms. Ryder noted that they don't even need to apply for trimming.

Mr. Febiger inquired as to the extent of trimming and Mr. Gulla stated that they could accidentally cut within 100 ft. of Wetlands.

Ms. Ryder stated if that were the case then they would be in violation with an after the fact filing and mitigation to determine the Wetland.

Mr. Gulla asked how far the pruning is allowed and Ms. Ryder noted the area.

Mr. Gulla further stated that he takes back a previous comment (the taking of photos of the presumed stumps from tree cutting) so as not to condone trespassing just because he said that.

**MOTION:** Mr. Febiger moves to continue the matter until 03/07/07 to close and approve, with signing.

**SECOND:** Ms. Jackson **VOTE:** 6-0

#### **ATLANTIC AVENUE** (Map 254) Request for continuation, representative is sick.

Mr. Schenk – recused Ms. Jackson Chairman at this time.

Mr. Schenk noted updated information is needed from the Commission to The Agent.

A work sequence is needed.

Mr. Gulla inquired as why this is so complex.

Mr. Schenk noted this is a first time project for him, City Engineering is involved and Vine Assoc. and it is hard to coordinate everything.

The Army Corp. of Engineers re: stream crossing standards which needs to be read in detail.

He further stated we have three other issues coming up in direct relation to the standards.

**MOTION:** Mr. Febiger moves to continue the matter until 03/21/07 at 8:30 PM

**SECOND:** Mr. Gulla **VOTE:** 5-0 all in favor

#### **12 HILLSIDE**

Closed, signature of decision.

Ms. Ryder notes that Tom Keough said he had wrote the continuation for 12 Hillside to the wrong meeting. He did not object to the project being removed from the agenda as additional information does not need to be submitted. He noted it was currently held up in ZBA. He requested that in lieu of the denial until additional information could be submitted, the GCC allow an indefinite withdrawal with resubmittal and re notification when all info is complete.

It was further noted that the GCC voted to deny already so the Commission would need to vote to reconsider the denial, then vote to allow the withdrawal if you are in agreement with the request.

The denial draft is also ready as that was the vote at the last meeting.

Mr. Schenk stated this to be open for reconsideration to have the denial be withdrawn.

The opinion of the Commission is that the project as proposed cannot be permitted.

Ms. Ryder noted that they need to vote on reconsideration.

**MOTION:** Ms. Jackson moves to re open

**SECOND:** Mr. Anderson **VOTE:** 6-0 all in favor

Now re opened.

Mr. Gulla re caps the Hillside issues. Ms. Jackson recused.

Ms. Ryder states for the record that she doesn't if the conditions to meet regulations to accomplish this.

Mr. Anderson feels allowing a chance for this to be done and not get caught up on procedures.

Mr. Socolow asked why we are rescinding this.

Ms. Ryder notes to not deny the project but get it off until they are ready.

Re-voting to deny or withdraw.

Mr. Schenk noted to revoke then allow for withdrawal.

MOTION: Mr. Febiger

SECOND: Mr. Anderson      VOTE: 4-0

Mr. Socolow departs the meeting.

### **154 WHEELER**

Enforcement Order allowing correction of altered tidal flat per Wetland Land Management Letter or restoration.

This is in regards to the removal of boulders in the flats.

The applicant is looking for a letter permit and has a restoration plan.

Dave Sargent stated it would be as it was.

(100 ft. by 100 ft of boulder chunks)

A vote was asked to be taken regarding the Enforcement Order.

MOTION: Ms. Jackson

SECOND: Mr. Anderson      VOTE: 5-0 all in favor

(One condition: an Environmental or Wetland Specialist be on site.)

### **187 ATLANTIC STREET**

Seabreeze Estates, preliminary plan for The Planning Board – project denied by The Planning Board, being resubmitted, request withdrawn.

The draft The Agent submitted went in for the record.

### **32 POPLAR STREET**

John Bertolino

Response to violation issues. Letter Permit request.

Shift the dog pen, replace trees and fence dog pen.

The City of Gloucester is to work on the drain pipe.

2 to 1 planting and moving the dog pen. Letter Permit to be issued by The Agent.

### **PAVILLION BEACH**

CoG additional extension request for CSO project.

Mr. Anderson stated that we should move to continue any action until we hear from other regulatory agencies.

Ms. Jackson asked about an Enforcement Order.

Ms. Ryder noted that essentially you would be killing the eel grass. She further noted to the Commission that they would have to decide which is the more critical issue.

Mr. Schenk, Mr. Gulla, Ms. Jackson and Ms. Ryder all agree that the eel grass is critical.

Mr. Anderson noted the spawning issue even worse with sonar re: flounder.

Mr. Gulla noted that in future projects we have to be more rigid.

Mr. Anderson stated he was not adverse to issuing a violation to the City.

Ms. Ryder notes turning this over to DEP further noting a \$100,000.00 fine.

MOTION: Ms. Jackson moves for an extension request.

SECOND: Mr. Gulla     VOTE: 5-0 all in favor

### **DULEY STREET**

Recapping- ROW grants for Duley Street to abutters on Conservation Commission land in 1970's by the City. Legal recording follow up by one of the abutting land owners. Land bought with State Open Space and Land Protection funding, which this was, can only have a use changed with vote of The Commission and an act of legislature, neither was conducted that we can tell.

The City granted the ROW's. At the office files are being deciphered for summary and response to L. Lowe's request for information.

The Conservation Commission never gave approval. Noted was Article 97 Act of Legislature.

### **NILES POND**

Mr. Schenk – Maggie was noted and a management plan for Niles Pond.

This is considered a Great Pond. Further discussed were soils and the Audubon Society.

Ms. Ryder noted a request for more information and asked if Mr. Gulla has any cost comparisons.

Mr. Gulla stated yes, somewhat.

Ms. Ryder noted that more cost data is needed regarding this.

### **ATLANTIC COASTAL FISH HABITAT PARTNERSHIP**

A workshop regarding the building up of a partnership between fishermen and the land.

Mr. Anderson stated a desire to go and Ms. Ryder stated she was planning on attending as well as possibly Dave Sargent.

A motion for adjournment was requested.

MOTION: Ms. Jackson

SECOND: Mr. Febiger     VOTE: 5-0 all in favor

(Other remaining Commission Business to be taken up at a following meeting.)

Respectfully submitted,  
Carol Gray  
Recording Clerk